

INTERLOCAL COOPERATION AGREEMENT

As-Needed Services/Loaned Employees

THIS INTERLOCAL AGREEMENT ("the Agreement") is entered into under the authority of the Interlocal Cooperation Act, Chapter 39.34 RCW, between the City of Carnation, Washington ("Carnation") and the City of Duvall, Washington ("Duvall"), both municipal corporations organized under the laws of the State of Washington, for the purpose of establishing a contractual relationship under which each city will avail its employees to perform services for the other city on an as-needed basis.

Recitals

WHEREAS, both Carnation and Duvall (each a "party" and collectively "the Parties") are "public agencies" as defined by Chapter 39.34 RCW, and are authorized by that statute to cooperate on a basis of mutual advantage in order to provide for services and facilities; and

WHEREAS, the Parties desire to establish an arrangement under which each party may utilize services provided by the other party's employees on a periodic, as-needed basis subject to the terms and conditions set forth herein; and

WHEREAS, the Parties desire to enter into this Agreement for the purpose of defining their respective rights, obligations, costs and liabilities regarding this undertaking;

NOW, THEREFORE, in consideration of the mutual benefits set forth herein, and other good and sufficient consideration the receipt and sufficiency of which are mutually acknowledged, the Parties hereby agree as follows:

Terms

Section 1. Authority and Purpose. This Agreement is executed pursuant to Chapter 39.34 RCW as a cooperative endeavor of the Parties. The purpose of this Agreement is to establish a contractual relationship under which each party may avail its employees to provide services for the other party on an as-needed basis, and to set forth the Parties' respective rights, obligations, costs and liabilities regarding this undertaking. This Agreement shall be reasonably construed in furtherance of this purpose.

Section 2. Provision of Services. Each party may utilize the employees of the other party to perform governmental services subject to the provisions of this section.

A. Request for Services. When a party desires employee services from the other party, the requesting party shall notify the other party at least 48 hours in advance of the day(s) during which the requested services will be performed, unless said service is an emergency, in which case this requirement is waived.

. Each request shall specify: (i) the nature and scope of the requested services; (ii) the date and estimated duration of the services; and (iii) the location where the requested services

will be performed. Requests may be communicated by telephone, U.S. Mail, electronic mail or facsimile.

B. Approval or Denial of Request. Upon receiving a request pursuant to Section 2(A), a party shall respond to the requesting party by either approving or denying the request. Responses may be communicated by telephone, U.S. Mail, electronic mail or facsimile.

C. Prioritization of Employee Time. The approval of a request for employee services pursuant to this section shall be subject to availability as determined in the sole discretion of the party receiving the request. It is expressly understood that each party's need for the services and time of its own employees shall take precedence over a request from the other party in the event of a conflict. Nothing herein shall be construed as requiring the approval of any request.

D. Performance of Services. Each employee performing services under this Agreement shall follow the reasonable directives of the requesting party, as defined by the mutually accepted scope pursuant to Section 2(A), and shall comply with all applicable laws, regulations, ordinances, codes and policies throughout the duration of such performance.

E. In addition to any requirements set forth herein and/or in any applicable laws, regulations, ordinances, codes or policies, the following provisions shall apply to the services performed by each employee utilized under this Agreement:

(1) Work Hours. The employee shall perform such services exclusively during regular business hours (8:00 a.m. through 5:00 p.m.), exclusive of travel time, unless expressly authorized by the requesting party.

(2) Office Space. For the purpose of providing services at the City Hall of the requesting party, the requesting party shall provide a temporary office workstation for the employee's reasonable use.

(3) Vehicle Use. The employee shall use his/her vehicle or the vehicle of his/her employer for purposes of necessary travel pursuant to this Agreement. The employee shall maintain a valid Washington State driver's license at all times relevant to this Agreement.

(4) Tools and Equipment. Except as otherwise specified in this Agreement or directed by the requesting party, the employee shall utilize his/her own tools and equipment for purposes of providing services hereunder.

F. Law Enforcement Personnel Excluded. This Agreement shall not cover employees engaged in law enforcement, the services for which are governed by a separate agreement between the Parties.

Section 3. Payment. Services provided under this Agreement shall be compensated at the rates and in the manner set forth in this section.

A. Hourly Fee. For services satisfactorily rendered under this Agreement, the requesting party shall compensate the other party at an hourly rate which includes pay and benefits per employee per hour, rounded upward to the nearest half-hour and inclusive of necessary travel. The Parties mutually acknowledge and agree that said fee reasonably reflects the full and true value of the services provided hereunder and is compliant with RCW 43.09.210.

B. Mileage Reimbursement. Separate from and additional to the hourly fee set forth in Section 3(A), the requesting party shall reimburse the other party for employee transportation between Duvall City Hall and Carnation City Hall at the current IRS mileage reimbursement rate.

C. Incidental Expenses. Incidental expenses such as photocopies, postage and material purchases shall be reimbursed at cost, inclusive of applicable tax.

D. Invoice and Payment Procedure. Each party shall submit a monthly written invoice to the requesting party for employee services rendered during the preceding month. Each invoice shall detail the services provided and any reimburseable expenses incurred. The requesting party shall remit appropriate payment to the other party within 30 days of receiving each invoice.

Section 4. Term. This Agreement shall be effective upon mutual execution by the Parties, and shall remain effective until December 31, 2015, unless terminated earlier in accordance with Section 5. The Parties may at their option renew this Agreement for a mutually agreeable term by a writing signed by both Parties.

Section 5. Termination. Either party may terminate this Agreement with or without cause by providing the other party with thirty (30) days written notice of its intent to terminate. Neither termination nor expiration of this Agreement shall relieve a party from remitting payment to the other party for satisfactory services previously rendered.

Section 6. Administration; No Separate Entity Created. The Carnation City Manager and the Duvall Mayor shall serve as administrators of this Agreement. No separate legal entity is formed hereby.

Section 7. Property Acquisition, Retention and Disposition. No joint acquisition of real or personal property is contemplated by this Agreement. Except as provided in this section, any other real or personal property acquired by a party shall remain within the sole and exclusive ownership of that party following the termination or expiration of this Agreement.

Section 8. Indemnification. Each party shall indemnify, defend and hold harmless the other party as provided in this section.

A. Carnation shall indemnify, defend and hold harmless Duvall, its officials, agents and employees, from and against any and all liability, including attorney's fees, arising from injury or death to persons or damage to property resulting in whole or in part from negligent or willfully wrongful acts or omissions of Carnation, its agents or employees.

B. Duvall shall indemnify, defend and hold harmless Carnation, its officials, agents and employees, from and against any and all liability, including attorney's fees, arising from injury or death to persons or damage to property resulting in whole or in part from negligent or willfully wrongful acts or omissions of Duvall, its agents or employees.

C. Each party's obligations under this section shall apply only to the extent of that party's negligence or wrongful act or omission. With respect to injuries, death or property damage resulting from the joint or concurrent negligence or wrongful conduct of both parties, the parties' respective liabilities shall be as defined by the laws of the State of Washington.

D. It is further specifically and expressly understood that the indemnification provided herein constitutes each party's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

E. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 9. Insurance. Each party shall maintain insurance coverage as provided in this section.

A. Duvall shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$2,000,000 per occurrence/aggregate for personal injury and property damage, and name Carnation as an additional insured thereon. This requirement shall be deemed satisfied by evidence of Duvall's membership in the Washington Cities Insurance Authority self-insurance pool, including evidence of limits of coverages, exclusions and limits of liability satisfactory to Carnation.

B. Carnation shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$2,000,000 per occurrence/aggregate for personal injury and property damage, and name Duvall as an additional insured thereon. This requirement shall be deemed satisfied by evidence of Carnation's membership in the Association of Washington Cities self-insurance pool, including evidence of limits of coverages, exclusions and limits of liability satisfactory to Duvall.

C. Each party shall each deliver evidence of such insurance coverage to the other within fifteen (15) days after execution of this Agreement.

Section 10. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. The venue for any action arising out of this Agreement shall be the Superior Court for King County, Washington. The substantially prevailing party in any such litigation shall be entitled to an award of its reasonable attorneys' fees from the nonprevailing party.

Section 11. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed as creating an employment relationship between Carnation and any employee, agent, representative or contractor of Duvall, or between Duvall and any employee, agent, representative or contractor of Carnation. Without limiting the forgoing, each employee providing services hereunder shall at all times relevant to this Agreement be and remain an employee of his/her employer, and the employer shall be exclusively responsible for providing all compensation, benefits, discipline and supervision with respect to the such employee except as expressly set forth in this Agreement.

Section 12. Notices. Notices to Carnation shall be sent to the following address:

**City Manager
City of Carnation
4621 Tolt Avenue
P.O. Box 1238
Carnation, WA 98014-1238**

Notices to Duvall shall be sent to the following address:

**Mayor
City of Duvall
15535 Main Street N.E.
P.O. 1300
Duvall, WA 98019**

Section 13. Duty to File Agreement With County Auditor. Prior to this Agreement's entry into force, Carnation shall, pursuant to RCW 39.34.040, (1) file this Agreement with the King County Auditor's Office, or (2) list this Agreement by subject on Carnation's internet web site.

Section 14. Integration. This document, together with any exhibits thereto, constitutes the entire embodiment of the contract between the Parties, and, unless modified in writing by an amendment signed by the Parties hereto, shall be implemented exclusively as described above. All oral agreements and understandings between the Parties related to the subject matter hereof shall be deemed superseded by this Agreement and shall hereinafter be null and void.

Section 15. No Third-Party Beneficiary Created. This Agreement is executed for the sole and exclusive benefit of the signatory Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any right, remedy or other entitlement upon any person other than the Parties hereto, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any party hereto.

Section 16. Signatory Warranty. Each signatory hereto warrants and represents that he/she has been authorized to execute this Agreement by appropriate action of the legislative body of his/her respective city.

Section 17. Execution in Counterparts. This Agreement may be executed in separate counterparts.

Section 18. Regulatory Authority Reserved. Nothing herein shall be construed as waiving, limiting or otherwise abridging in any manner regulatory authority of either party, which Carnation and Duvall hereby expressly reserve in full.

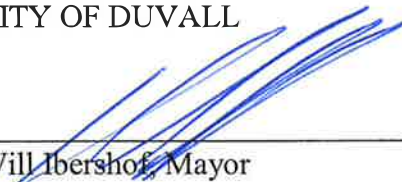
EXECUTED this 23 day of NOVEMBER, 2010.

CITY OF CARNATION



Ken Carter, City Manager

CITY OF DUVALL



Will Ibershof, Mayor

ATTEST/AUTHENTICATED



Mary Otness, City Clerk

ATTEST/AUTHENTICATED



Jodee Schwinn, City Clerk

APPROVED AS TO FORM



Duvall City Attorney